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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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I. General

1. Gibraltar[1] is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the United Kingdom of Great Britain and Northern Ireland, the area of Gibraltar is 5.86 square kilometres. According to Spain, it is 4.8 square kilometres.

2. According to the latest census of Gibraltar, taken on 14 October 1991, Gibraltar's civilian population in 1991 was 26,703, consisting of 20,022 Gibraltarians, 3,811 other British subjects, including families of British servicemen stationed in Gibraltar, but excluding servicemen, and 2,870 aliens. Estimates for 1996 placed the population of Gibraltar at 27,337, with an average population density of 45.8 persons per hectare, excluding servicemen, visitors and transients.

II. Political developments

A. General

3. Detailed information on the Territory's Constitution and Government, public service, and other related developments is contained in the 1994 working paper prepared by the Secretariat (A/AC.109/1195).

B. General elections

4. The last general elections held in Gibraltar were on 16 May 1996, in which, according to the administering Power, 88 per cent of the registered voters participated. The results were as follows: the Gibraltar Social Democratic Party, 52.2 per cent; the Gibraltar Socialist Labour Party, 43 per cent; and the Gibraltar National Party, 4.7 per cent. Consequently, the Gibraltar Social Democratic Party won eight seats in the Territorial Legislative Assembly and the Gibraltar Socialist Labour Party obtained seven seats (the winning party always wins eight seats and the losing party always takes the seven remaining seats). Mr. Peter Caruana, leader of the Gibraltar Social Democratic Party, obtained 8,561 votes and was appointed Chief Minister of Gibraltar.

C. Recent developments

5. The United Kingdom Government launched a Strategic Defence Review in May 1997 to examine most areas of the United Kingdom's defence. The resultant Strategic Defence Review White Paper placed renewed emphasis on the rapid deployment of British forces in response to crisis. According to the administering Power, Gibraltar and its facilities provide an independent forward operating base for British forces in the Mediterranean and serve as a transit base for vessels en route to the Middle East and elsewhere. Service manpower at Gibraltar has been reduced to the minimum necessary to manage the remaining defence facilities in the Territory. As a consequence of British defence cuts in Gibraltar, the defence input into the local economy has fallen to about 10 per cent of the gross domestic product (GDP), or around 60 million pounds sterling (£). This is scheduled to fall to £40 million by the year 2000.

III. Economic conditions

A. General

6. Gibraltar has no known natural resources and lacks agricultural land. The industries, trades, and services in the Territory mainly supply the needs of its population and the large number of visitors to the Territory. The economy of Gibraltar is largely dependent on tourism and the provision of financial services, such as banking, insurance, shipping and portfolio management.

7. According to the administering Power, the latest available estimate for national income is for 1994/1995. GDP per capita and gross national product (GNP) per capita were estimated at £11,623 and £11,953, respectively.

B. Public finance

8. The report of the administering Power indicates that departmental revenue credited to the Consolidated Fund for the year ending on 31 March 1997 totalled £76.4 million, whereas departmental expenditure amounted to £60.1 million, compared with £71.9 million and £53.1 million, respectively, in 1995/1996. The main sources of Consolidated Fund revenues were income tax, which totalled £45.3 million and general rates, which totalled £9.2 million.

9. On 31 March 1997, the public debt of Gibraltar stood at £61.4 million, compared with £64.9 million on 31 March 1996.

10. Income tax is charged on income arising in, derived from, or received in Gibraltar. Dividends, interest, pension and emoluments of office accruing in, derived from, or received in any place outside Gibraltar by an individual ordinarily resident in Gibraltar are also taxable. The rates applicable to individual residents in Gibraltar range from 20 per cent on the first £1,500 of taxable income to 50 per cent after the first £19,500.

C. Trade

11. In 1996, the total values of imports and exports were £475.1 million and £216.9 million, respectively. Over one third of Gibraltar's non-fuel imports originate in the United Kingdom. Other sources of imports include the Netherlands, Japan, and Spain. Exports of goods of local origin are negligible. Exports consist mainly of re-exports of petroleum and petroleum products supplied to ships.

12. Imports control has not changed during the period under review. All goods, other than a few items of essential foodstuffs, gold, jewellery, petrol, caravans and endangered species can be imported under the Open General Licence.

D. Banking and finance

13. In March 1997, there were 25 banks authorized to operate in Gibraltar (one small bank ceased operations in Gibraltar during the period under review). The banking sector serves offshore and local customers and has balance sheet footings of over £6 billion. Over the past year, progress was made towards implementing the European Union's Deposit Guarantee Directive (94/19/EC), to provide protection for bank depositors. The Government is also moving to implement the European Union's Capital Adequacy Directive (93/6/EC) and the Investment Services Directive (93/33/EC).

14. The number of companies registered under the Companies (Taxation and Concession) Ordinance on 31 December 1997 stood at 15,060, an increase from 8,000 in December 1995. Companies that are registered under this Ordinance are exempted from the payment of income tax upon payment of a fixed annual fee, irrespective of profits made and whether these profits are received in the territory. The exemption covers dividends, interest, directors' fees, and annual payments made to non-residents. Unless otherwise authorized, the company must not carry on trade or business in Gibraltar and no Gibraltarian or resident of Gibraltar may have any beneficial interest in the company's shares.

E. Transportation, communications and utilities

15. The total length of roads in the Territory is 26.75 miles and they are reported to be in good condition and suitable for vehicular traffic. Five bus routes serviced by 17 buses maintain communication in the Territory. The total number of registered vehicles on 30 December 1996 was 27,722.

16. In 1996, a total of 66,219 persons arrived in the Territory by air and 122,054 by sea.

17. Air mail is dispatched to London, and via London to all destinations worldwide, six times a week by direct flights. Surface mail to and from the United Kingdom is received and dispatched five times a week. In 1997 eight commemorative sets of stamps were issued in the Territory.

18. The telephone is operated by Gibraltar NYNEX Communication, Ltd., a joint United States of America/Gibraltar company. NYNEX merged with Bell Atlantic on 15 August 1997. In 1997, the total number of telephones was 23,832, compared with 21,466 in 1996.

19. The Electricity Department is responsible for the supply of electricity for civilian use in the Territory. The Ministry of Defence operates a separate undertaking to meet defence requirements. During 1997, the maximum electricity demand was 24,100 kilowatts and a total of 111.2 million kilowatt-hours were generated.

F. Tourism

20. In 1996, tourist arrivals totalled six million, compared to 5.5 million in 1995. Hotel arrivals in 1996 were 46,000.

IV. Social and educational conditions

A. Labour

21. In 1997, the total number of employees in Gibraltar remained at 13,000 and the number of unemployed decreased to 1,700 from 1,800 in 1996.

22. In 1996, average weekly earnings in the Territory were £231.88, compared to £233.32 in 1995.

23. Legislation regulating labour and employment conditions in the Territory is reported to be in line with European Union directives. The Trade Unions and Trade Disputes Ordinance of Gibraltar contains provisions similar to those in the United Kingdom for the registration and organization of trade unions. As of December 1995, there were 20 trade unions registered in the Territory.

B. Human rights and the status of women

24. The Gibraltar (Constitution) Order of 1969 guarantees the protection of the fundamental rights and freedoms of the individual and the maintenance of a Supreme Court with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with such jurisdiction and powers as are conferred upon it by the Constitution of Gibraltar or any other law.

25. The courts of law of the Territory consist of a Court of First Instance, a Magistrates' Court, a Court of Appeal and a Supreme Court. The substantive law of the Territory is contained in Orders in Council and enactments of the Parliament of the United Kingdom that apply to Gibraltar, as well as in locally enacted ordinances, subsidiary legislation, the common law, and the rules of equity in force in the United Kingdom, so far as they are applicable to the Territory.

26. The status of women in Gibraltar, whether married or single, with or without family responsibilities, is similar to that enjoyed by women in the United Kingdom. The Social Security (Insurance Ordinance) of Gibraltar provides for the payment of a variety of benefits and allowances to expectant mothers and widows.

C. Environment

27. In 1996, the Environmental Health Department, which was a Territorial Government Department, ceased to exist. The functions formerly carried out by the Department have been transferred to a fully privatized Environmental Agency. The chief Environmental Health Officer is responsible for the overall running of the Agency and is answerable to the Minister for the Environment and Health.

28. General environmental health work carried out throughout 1996 included the inspection of dwellings, building works, catering establishments, bakeries, grocery shops, hairdressers and barber shops, meat and food inspection, disinfestation and disinfection, investigation of infectious diseases, sampling of foods and water supplies, pest and rodent control and the monitoring of noise complaints, atmospheric pollution and the quality of drinking and bathing water.

29. According to the administering Power, the United Kingdom and Gibraltar Governments are fully committed to the implementation in Gibraltar of any European environmental legislation that applies to the Territory and to the implementation of any obligations arising under international environmental law which are binding in Gibraltar. European Union Directives that, as of January 1988, were still awaiting implementation are Directive 85/1210/EEC (concerning lead-free petrol), Directive 941/671/EEC (concerning the incineration of hazardous waste), and Directives 80/51/EEC, 83/206/EEC, 89/629/EEC, and 92/14/EEC (all concerning aircraft noise emissions).

D. Housing

30. According to the administering Power, the most noticeable change over this period in the housing sector was the increase in owner-occupied houses and apartments/flats.

31. The Government continues to pursue a policy of increased home ownership, both to alleviate the housing shortage and to reduce the burden of increasing repair and maintenance costs for its rented accommodations. Since 1985, the level of home ownership in Gibraltar has increased from 6 per cent to 25 per cent by 1994, and to 30 per cent in 1997.

32. An increase in the availability of housing was achieved through the release of married soldiers' quarters by the Ministry of Defence to the public for residential use. Over 100 residential units became available to civilians.

33. At the end of 1997, the government housing waiting list contained 500 applicants, compared with 568 at the end of 1994.

E. Social welfare and assistance

34. The Social Security (Employment Injuries Insurance Ordinance) system provides for payment of injury benefits, disablement benefits, and industrial accident death benefits. In addition, free medical treatment for employment injuries and occupational diseases is provided at government hospitals.

35. The Social Security (Non-Contributory Benefits and Unemployment Insurance) Ordinance covers entitlement and

payment of unemployment benefits to unemployed persons previously in employment. Payment of such benefits is financed from the weekly contributions by employers and employees to the Social Insurance (Short-term benefit) Fund. The standard weekly rate of unemployment benefits is £37.20, with an increase of £18.30 per week for any one dependent adult. During 1995, 609 claims for employment benefits were processed and 609 requests granted.

36. The social assistance arrangements provide for a case-by-case discretionary consideration of individual need. The basic weekly rates are single person, £29.10-£38.30 and married couples, £50.20-£56.30. Higher rates are paid to registered blind persons. Persons in receipt of social assistance may apply for rent relief.

F. Public health

37. The Gibraltar Health Authority is responsible for providing health care in the Territory. The Authority operates a group practice medical contributory scheme and gives registered persons access to free medical treatment.

38. St. Bernard's Hospital, with a total of 103 beds, provides comprehensive out-patient services and in-patient treatment for acute medical and surgical cases. It also has a maternity section and two wards for elderly patients. The King George V Psychiatric Unit has 60 beds and provides diverse types of psychiatric treatment, including in- and out-patient services. The territorial Health Centre provides general practice medical services, including house visits.

39. A programme of visits by consultants from the United Kingdom covers specialties, such as pediatric neurology, cardio-thoracic surgery, and plastic surgery.

40. As of 1996, the territorial medical and health staff included the following: 34 registered physicians, 118 nurses of senior training, 204 partially-trained nurses, 10 midwives of senior training, nine environmental health officers, 17 laboratory and X-ray technicians, one pharmacist and 87 other staff.

41. During 1995-1996, total public health expenditures amounted to £20.67 million, compared to £19.9 million in 1994/95.

G. Public education

42. The Education Department continues to be in charge of public education in Gibraltar. In 1995/96, a total of £11 million was spent on education, compared with £10.9 million in 1994/95.

43. As of December 1996, 4,677 students were enrolled in government schools. Education is free and compulsory for all children between the ages of 5 and 15. There are 12 government primary schools, 1 private school, 1 services school, and 2 secondary schools. There is also 1 special school that caters to 19 children with a variety of special needs.

H. Crime and crime prevention

44. The report of the administering Power notes that the activities of Gibraltar-based fast boats and rigid inflatables have been effectively eliminated and that illicit trafficking involving Gibraltar is no longer a problem. According to the administering Power, the United Kingdom and the Gibraltar Governments are ready to cooperate with the Spanish authorities on this issue in the common regional interest.

45. The administering Power reported 1,002 minor offences (such as liquor offences, disorderly conduct, and firearms violations) and 858 arrests for minor offences in 1996, down from 1,659 offences and 1,555 arrests in 1995. Also reported for 1996 were 3,702 serious crimes (such as violence against the person, sexual offences, and robbery) and 2,104 arrests for serious crimes, down from 4,630 reported serious crimes in 1995 and 2,948 arrests.

46. In 1997, 230 prisoners were received in the Territory's only prison. The daily average population of the prison was 30.95, compared to 32.65 in 1996. The prison contains 36 cells, a sick bay, recreation rooms, a gymnasium, workshop, classroom, canteen, laundry, kitchen, chapel and a 4,000-book library. Female inmates and young offenders are separated from adult male inmates. Prisoners are given education and employment opportunities.

47. The administering Power also indicates that on 5 July 1995, the Government of Gibraltar introduced import and export regulations prohibiting the importation of semi-rigid inflatable vessels in Gibraltar. On the same day, regulations were also introduced under the Port Ordinance, imposing new controls on the mooring of all types of small vessels. Consequently, all of the 55 rigid inflatable vessels berthed in Gibraltar were seized by the Royal Gibraltar Police and all but one have been confiscated or exported and prohibited re-entry. Of the 112 Phantom-type speed boats in Gibraltar, all but 48 were outlawed by legislation passed in July 1995.

V. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

48. The Special Committee considered the question of Gibraltar at its 1470th meeting, on 6 June 1997. The Special Committee heard Mr. Peter Caruana, Chief Minister of Gibraltar (see A/AC.109/SR.1470). The Special Committee acceded to the request of the delegation of Spain to participate in the Committee's consideration of the question of Gibraltar. At the same meeting, the representative of Spain made a statement in which he reiterated the position of his Government on the question of Gibraltar (see also para. 69 below).

49. At its 1470th meeting on 6 June 1997, the Special Committee decided, without objection, to continue its consideration of the question at its 1998 session, subject to any relevant directives that the General Assembly might provide at its fifty-second session and, in order to facilitate consideration of the question by the Special Political and Decolonization Committee (Fourth Committee), to transmit the relevant documentation to the Assembly.

B. Special Political and Decolonization Committee (Fourth Committee)

50. The Special Political and Decolonization Committee (Fourth Committee) considered the question of Gibraltar at its 5th, 6th and 9th meetings, on 9, 10 and 27 October 1997, respectively. At its 5th meeting on 9 October, the Committee heard Mr. Peter Caruana, Chief Minister of Gibraltar (see A/C.4/51/SR.5). At the Committee's 6th meeting on 10 October, the representative of Spain made a statement (A/C.4/51/SR.6). At its 10th meeting on 27 October, the Committee adopted, without a vote, the draft decision entitled "The Question of Gibraltar" contained in document A/C.4/51/L.3 (see also A/C.4/51/SR.9).

C. Action by the General Assembly

51. At its 69th plenary meeting on 10 December 1997, the General Assembly, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted decision 52/419 without a vote, as representing the consensus of the members of the Assembly:

> "The General Assembly, recalling its decision 51/430 of 13 December 1996 and recalling at the same time that the statement agreed to by the Government of Spain and the United Kingdom of Great Britain and Northern Ireland at Brussels on 27 November 1984 stipulates, *inter alia*, the following:
>
> > 'The establishment of a negotiating process aimed at overcoming all the differences between them over Gibraltar and at promoting cooperation on a mutually beneficial basis on economic, cultural, touristic, aviation, military and environmental matters. Both sides accept that the issues of sovereignty will be discussed in that process. The British Government will fully maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble of the 1969 Constitution.'
>
> "Takes note of the fact that, as part of this process, the Ministers for Foreign Affairs of Spain and of the United Kingdom of Great Britain and Northern Ireland hold annual meetings alternately in each capital, the most recent of which was held in London on 22 January 1997, and urges both Governments to continue their negotiations with the object of reaching a definitive solution to the problem of Gibraltar in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations."

VI. Future status of the Territory

A. Position of the administering Power

52. The administering Power reported that it had not changed its position regarding the Territory during the period under review. It will be recalled that at the 13th plenary meeting of the General Assembly on 27 September 1996, speaking in the exercise of the right of reply to a statement by the Foreign Minister of Spain (see also A/AC.109/2084 para. 67), the representative of the United Kingdom made the following statement (A/51/PV.13):

> "My delegation has no wish to engage in open polemic with a friendly ally and partner on an issue which can be resolved only by direct talks, such as have already been agreed between our Governments, in the Brussels Declaration of 1984, to which the Foreign Minister referred. In view of what was said,

however, it may be necessary to restate the position of my Government, although it is well known to the Government of Spain.

"British sovereignty over Gibraltar was clearly established in the Treaty of Utrecht. This legal fact is incontrovertible. Furthermore, Britain stands by its commitment to the people of Gibraltar in the preamble to the 1969 Constitution. Her Majesty's Government will not enter into any arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes.

"We do not consider that the notion of territorial integrity is at all relevant in this case. I am sure that our Spanish colleague, who exercised his own right of reply last Monday night, understands this position.

"There are many issues left over from history which are better solved by cooperation than by assertions of sovereignty. Nonetheless, we recognize that Spain is Gibraltar's immediate neighbour and we attach importance to continuing dialogue with Spain as a means of overcoming our existing differences.

"It is in that framework that my Government and the Government of Gibraltar have been engaged with the Government of Spain in talks to improve cooperation on issues such as drug smuggling in the area and to enable the communities on both sides of the frontier to benefit from free economic relations within the framework of the European communities."

53. It will further be recalled that at the 94th plenary meeting of the General Assembly on 27 March 1997, the representative of the United Kingdom said, *inter alia* (A/51/PV.94):

"[...]The United Kingdom fully accepts its responsibilities under the Charter of the United Nations as an administering Power."

54. Also, in a speech before the Dependent Territories Association on 4 February 1998, the Foreign Secretary of the administering Power said, *inter alia*:

"I would like to use this forum to restate publicly Britain's commitment to the people of Gibraltar. We will continue to respect their wishes. There can be no change in the sovereignty over Gibraltar without their consent. Our commitment to them, and to all the peoples of the overseas Territories, remains as strong as ever."

B. Position of the territorial Government

55. In a statement made on 9 October 1997 at the 5th meeting of the Fourth Committee, Mr. Peter Caruana, Chief Minister of Gibraltar, said, *inter alia*:

"Mr. Chairman, Gibraltar is not part of Spain. It has not been part of Spain since Spain alienated it forever to Great Britain by Treaty 84 years ago. Accordingly the established principle that self determination is not available to the people of a territory that is actually an integral part of a Member State clearly has no application to Gibraltar. In our case the exercise of self determination cannot disintegrate Spain for reason that Gibraltar is not integrated in Spain.

"[...]Mr. Chairman, time cannot stand still for Gibraltar and we must progress onwards. The Government of the United Kingdom, the administering power in Gibraltar, has recently announced a comprehensive review of policy in relation to its remaining non self governing territories, or Dependent Territories. The Government of Gibraltar welcomes this review. In effect it recognizes two things. First that the current arrangements affecting Dependent Territories need modernization. And second, it recognizes that the circumstances of each Dependent Territory require individual consideration and that tailor-made formulae for each territory are necessary.

"[...]I can confirm that my Government will shortly table with London proposals for constitutional development aimed at removing the remaining colonial features of our relationship with the United Kingdom. Under our proposals, Gibraltar would remain in a close political and constitutional relationship to the United Kingdom and under British sovereignty, but it would, if accepted by the people in referendum, amount to a non-colonial relationship and an effective exercise of self determination under the terms of the fourth option set out in Resolution 2625 (XXV) of the 24 October 1970."

56. In a statement made on 18 December 1997, in response to a question from Assembly member Mr. Joseph Bossano, with regard to the proposal on joint sovereignty recently made by the Spanish Government to the British Government (see para. 72 below) Mr. Peter Caruana, Chief Minister of Gibraltar, *inter alia*, said:

"Given that the British Government is committed to respecting our wishes [...] any discussion of these

proposals would be inconsistent with a commitment to our wishes."

57. In a statement made on 4 February 1998 at the Dependent Territories Association in London, Mr. Peter Caruana also said, *inter alia*,:

"[Gibraltar wishes] to continue in a close political and constitutional relationship with the United Kingdom.

"But it is only natural and dignified that we should also wish to maximize our self-government and our control over our own affairs and destinies. To that end we may seek to reform our Constitution so that they should reflect a modern, non-colonial constitutional relationship with the United Kingdom.

"[...]We appreciate that at present full membership of the Commonwealth is limited to sovereign independent States which we are not. But there would seem to be no reason why we should not enjoy some intermediate status with a right to attend and participate in Commonwealth events and bodies, albeit in a less than full manner. There is a precedent for this in the Commonwealth Parliamentary Association in which the Dependent Territories participate side by side with full Member States."

C. Position of the Government of Spain

58. At the 1470th meeting of the Special Political and Decolonization Committee (Fourth Committee) held on 6 June 1997, the representative of Spain recalled that the incorporation of Gibraltar into Spanish territory had been a constant aspiration in the history of his country.

59. The Spanish claim, which was supported wholeheartedly by the Spanish people and by all Spanish political forces across the ideological spectrum concerned both the Rock of Gibraltar and Strait of Gibraltar, more than half of which had been gradually and illegally occupied by the United Kingdom throughout the nineteenth century.

60. The representative of Spain referred to three aspects of the question, starting with the validity of the Treaty of Utrecht and the limitations imposed on British sovereignty. Noting that the members of the Committee were conversant with the historical background to the current colonial situation of Gibraltar, he briefly recalled the contents of article X of the Treaty, which provided, *inter alia*, for a pre-emptive right for Spain under which Great Britain would be required to give priority consideration to Spain, were it to decide to give up Gibraltar. That clause not only excluded independence, but also prohibited any other formula, however imaginative, that Spain might not have endorsed. Therefore, in accordance with the Treaty of Utrecht, Gibraltar could only be British or Spanish. The Treaty had come into force nearly 300 years, but the principle of "pacta sunt servanda" and international validity of the text were still recognized by the United Kingdom, Spain and the United Nations itself.

61. Secondly, referring to the United Nations' doctrine and the full applicability of the principle of territorial integrity, the representative of Spain noted that the various relevant General Assembly resolutions showed that the restoration of the territorial integrity of the State implied the decolonization of Gibraltar.

62. Thus, General Assembly resolution 1514 (XV) of 14 December 1960 provided that the principles governing the processes of decolonization must necessarily be compatible "Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

63. That was reaffirmed in General Assembly resolution 2625 (XXV) of 24 October 1970 on the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, according to which, "any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a ... country or at its political independence is incompatible with the purposes and principles of the Charter".

64. Successive General Assembly resolutions had therefore established the full applicability of the principle of territorial integrity to the decolonization of Gibraltar.

65. The representative of Spain also recalled two other General Assembly resolutions which dealt specifically with the question of Gibraltar. They were resolution 2353 (XXII), in which the General Assembly considered that "any colonial situation which partially or completely destroys the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations", and resolution 2429 (XXIII), by which the Assembly requested "the administering Power to terminate the colonial situation in Gibraltar" and reaffirmed that the colonial situation was contrary to the Charter of the United Nations.

66. The third aspect had to do with the process of negotiations between the United Kingdom and Spain, which constituted an appropriate framework for the settlement of Gibraltar's colonial situation. The representative of Spain

recalled that since 1973, and in the light of the doctrine laid down by the United Nations, the General Assembly had been constantly urging the two Governments to pursue bilateral negotiations with a view to putting an end to a situation which affected both the United Kingdom (as the colonial Power recognized by the Treaty of Utrecht) and Spain (since the colony in question was on Spanish territory).

67. In the Joint Communiqué signed in Brussels in 1984, the two countries had undertaken to begin negotiations on the future of Gibraltar which would deal with the issues of sovereignty and cooperation with a view to preserving their mutual interests. Those negotiations had been ongoing since in 1985.

68. The Spanish Government continued to advocate dialogue, and was determined to pursue the negotiations in a constructive spirit, in the hope that they would lead to a settlement of the dispute over Gibraltar.

69. Representatives of the people of Gibraltar had participated in the negotiations alongside the British delegation until 1988, when they had decided to withdraw. The Spanish Government believed that the local authorities had been entitled to take that decision, but their self-exclusion was regrettable, and it was to be hoped that the representatives of Gibraltar would reconsider that decision and again participate in the negotiating process. Spain continued to hold the inhabitants of Gibraltar in the highest regard; it hoped that they would prosper and progress, and bore them no ill will. The Spanish authorities had proven time and time again that they were fully prepared to duly respect the legitimate interests, status and special circumstances of the inhabitants of Gibraltar.

70. The representative of Spain also recalled that his country was fully prepared to guarantee respect for those three elements, in the context of a negotiated solution which would at last end the controversy over Gibraltar and would involve the restoration of Spain's territorial integrity in accordance with the resolutions of the General Assembly.

D. Anglo-Spanish negotiations

71. The negotiating process established by the Brussels Joint Communiqué of 27 November 1984 continued during the period under review. One formal meeting was held at the level of Foreign Minister, in Madrid, on 10 December 1997.

72. The Permanent Mission of Spain to the United Nations has informed the Secretary-General that, during the ministerial meeting, the Spanish Minister for Foreign Affairs made formal offer to the British Government, and implicitly to the people of Gibraltar, that can be summarized as follows:

"1. A Statute is proposed for Gibraltar similar in its degree of political and administrative autonomy to that of the Spanish Autonomous Communities. *Inter alia*, it involves the following:

"(a) The democratic rights and freedoms set out in and protected by the Spanish Constitution of 1978 would automatically be extended to Gibraltar, which has them similarly formulated in its 'Constitution' of 1969.

"(b) Like the most advanced Statutes of Autonomy, that of Gibraltar would protect Gibraltar's linguistic and cultural identity within the Spanish context.

"(c) The negotiation of the Statute would include determination of the powers that would be accorded to the Government of Gibraltar in line with the definition of the powers that Autonomous Communities may assume under article 148 of the Spanish Constitution.

"(d) The Statute would also provide for self-government institutions to be organized for the territory, including the special system for the judiciary.

"(e) Such special features as may be agreed concerning Gibraltar's economic system would also be provided for, Spain would have no problem, in this area, with accepting the current economic features that define Gibraltar's status within the European Union.

"2. Concerning the personal status of the people of Gibraltar, Spain does not wish to compel them to change their nationality, and it might be possible to negotiate a special preferential system for acquiring Spanish nationality or keeping dual nationality. As a guarantee for the people of Gibraltar, Spain is prepared to accept a transitional period in which sovereignty would be exercised jointly by Spain and the United Kingdom, at the end of which transitional period either that option or the possibility of studying another similar formula would be open for negotiation. This offer of a transitional period with a guarantee would meet the wishes recently expressed by the authorities of Gibraltar for a constitutional reform to be sought that did not involve losing a link with the British Crown.

"[...] The Spanish Minister for Foreign Affairs has made public his readiness to receive the Chief Minister

of Gibraltar, Mr. Caruana, and it is hoped that this meeting will take place soon."

E. Anglo-Gibraltarian discussions

73. During the period under review, there were regular meetings and discussions between the United Kingdom and Gibraltarian ministers and officials. It will be recalled that on 12 February 1996, Mr. David Davis, the then Minister of State for Foreign and Commonwealth Affairs, stated that:

> "My right honourable and learned friend the Foreign Secretary regularly meets the Chief Minister of Gibraltar to discuss matters concerning Gibraltar's future."

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73*e* of the Charter of the United Nations, on 18 March 1997, as well as from the official documents of the Government of Spain.